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EFFECTIVE FUNCTIONING OF HUMAN RIGHTS MECHANISMS

Written statement submitted by Pax Christi International, International Catholic Peace Movement, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[30 December 1999]

GE.00-10589 (E)

Economic sanctions and human rights mechanisms

1. On 10 November 1998 the General Assembly of the United Nations declared the years 2001-2010 to be the Decade for a Culture of Peace and Non-Violence for the Children of the World. At that time, the adopted resolution stated that "the task of the United Nations to save future generations from the scourge of war requires transformation towards a culture of peace" and "a culture of peace and non-violence promotes respect for life and dignity of every human being without prejudice or discrimination of any kind". Pax Christi International holds that every human being has the right to those things necessary to human life and dignity, including food and necessary medicines. We further hold that all parents have the right to ensure that their children can grow up with hope for the future.

2. Pax Christi International refers to the Charter of the United Nations where economic sanctions are regarded as a legitimate instrument of the Security Council while at the same time the Charter directs the Security Council to act in accordance with the principles and purposes of the Charter, among them the promotion of human rights. The Geneva Conventions are an important legal framework as well. Therefore, Pax Christi International requests with great urgency that the United Nations Commission for Human Rights consider and take action to amend the application of economic sanctions which unfairly target civilian populations. These types of sanctions can violate human rights and can serve as a silent killer if they deprive civilians of access to the means of subsistence necessary for life.

3. The United States bishops proposed in their 1993 pastoral letter, "The Harvest of Justice is Sown in Peace", the following criteria, which are supported by Pax Christi International, to evaluate the moral dimension of comprehensive sanctions: "Comprehensive sanctions may be considered only in response to aggression or grave and ongoing injustice after less coercive measures have been tried and with clear and reasonable conditions set for their removal. ... The harm caused by sanctions should be proportionate to the good likely to be achieved; sanctions should avoid grave and irreversible harm to the civilian population. Therefore, sanctions should be targeted as much as possible against those directly responsible. ... Selective sanctions which target offending individuals and institutions are usually preferable ... to complete embargoes. Embargoes, when employed, must make provision for the fundamental human needs of the civilian population. The denial of basic needs may not be used as a weapon. ... The consent to sanctions by substantial portions of the affected population is morally relevant. ... Sanctions should always be part of a broader process of diplomacy aimed at finding an effective political solution to the injustice."

4. In further elaborating on this approach, we believe the following areas are in need of immediate review:

(a) Early warnings and conflict prevention should come before economic sanctions. Non-violent actions from inside should be supported before, during and after a crisis. This could be a real instrument for change;

(b) In line with the United Nations principles on last resort and just authority, Pax Christi International stated earlier that the morality of the use of sanctions depends on who and how the decision is made and implemented: a decision to use sanctions should preferably be

made by the United Nations based on United Nations-signalled aggression, or grave and ongoing injustice, and implemented and evaluated by the United Nations. The International Criminal Court could play a central role here;

(c) Sanctions cannot be applied against a country for an undetermined amount of time. To do so risks severe harm to the civilian population, especially when the Government concerned does not cooperate with the United Nations in applying the sanctions, as we have seen in Iraq. When sanctions are applied, they need to have a time limit after which they will be reviewed. Sanctions would only be allowed to continue pending a formal vote after the results of a review have been considered;

(d) A minimum standard of living must be determined as one of the criterion for evaluating the effects of sanctions. Sanctions must not condemn civil society to live below subsistence level for a prolonged period of time. There is a need to develop a minimum standard of living which is higher than mere survival;

(e) There must be an option for providing humanitarian relief to civilians in countries where sanctions are being applied. If it is determined that the health and nutrition of civilians is being harmed by sanctions and the sanctions are allowed to continue, humanitarian relief must be provided. The humanitarian exemption also needs a mechanism to ensure that the suffering population, such as in Iraq, indeed has access to relief;

(f) Civilians from the country against which sanctions may be applied must be consulted before a decision to impose sanctions is made. Sanctions are not likely to be effective without the consent of civilians. In Iraq, many civilians cry out repeatedly for an end to sanctions and that they are a failed policy. In South Africa, sanctions were effective in large part because of the supportive efforts initiated by civilians in that country. The voice of the common people must be taken into consideration, it is not enough to listen only to the voices of the elite, who are usually not severely harmed by sanctions. A process for receiving input from the common people needs to be established. Consideration of the voices of common people must also be a part of the process of reviewing sanctions after they are imposed;

(g) The use of selective sanctions (financial restrictions such as freezing of loans and assets in foreign banks) must take priority over the use of comprehensive sanctions. Selective sanctions are strategically designed to target government officials and other elites rather than the civilian population. Studies show that selective sanctions are much more effective than comprehensive sanctions. In addition, the threat of widespread civilian suffering is reduced significantly when selective sanctions are used;

(h) The effects of sanctions on neighbouring countries, such as in the wider Balkan region, and their suffering peoples should also be taken into consideration. The control and compensation of damage for neighbouring countries is an important factor and an obligation for the international community;

(i) The international community has a duty or responsibility also after the sanctions, in the field of reconstruction and recovery, for example;

(j) A process for reviewing the effects of the sanctions in light of the purposes and principles of the Charter needs to be established. This review must consider: (a) if the original goals of the sanctions have been met; and (b) the consequences which the sanctions have had on the civilian population of the country being targeted;

(k) An independent monitoring body must be established to conduct a review of the effect of sanctions. The fact that Denis Halliday, former United Nations Humanitarian Relief Coordinator, needed to resign his position with the United Nations before he could speak freely about the effects of the sanctions in Iraq is a clear example of the need for an independent monitoring body. Such a body should be comprised of members of NGOs, doctors who can evaluate the health of civilians living amid sanctions, and civilians from the country being targeted.

5. The very real example of the devastating effects of economic sanctions in Iraq points to the urgent need for the Commission on Human Rights to evaluate thoroughly the ways in which economic sanctions are utilized. Chapter VII of the Charter allows for economic sanctions but fails to regulate them in any way. It is imperative that regulations be developed to guide the implementation of sanctions. Without the development of such regulations, there is nothing to prevent sanctions which are implemented as tools of diplomacy from becoming weapons of mass destruction.

6. We urge the Commission on Human Rights to do everything in its power to ensure that a thorough review is given to the use of sanctions, addressing the different areas that we have identified above.